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09/520,029	03/06/2000	Chaitanya Kanojia	2657.2001002	9400

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EXAMINER

DINH, KHANH Q

ART UNIT PAPER NUMBER

2155

DATE MAILED: 09/29/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/520,029

Applicant(s)

KANOJIA ET AL.

Examiner

Khanh Dinh

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,4,5,6,7,8 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-40 are presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1, 2, 5-30, 33-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Kupka et al US pat. No.6,434,535.

As to claim 1, Kupka discloses a system for deploying content to network devices (20's fig.1) over a data network (12 fig.1), comprising:

a content store (vendor server 16c fig.1) that stores the content.

a system manager (Media Tracking Server 16a fig.1) for scheduling a download of content from the data store to targeted network devices and downloading criteria for activation of the content on the targeted

network device (Activation of Media upon Authentication of users, see abstract, fig.1, col.7 line 32 to col.8 line 54 and col.11 line 28 to col.12 line 53).

As to claims 2, Kupka discloses that the system manager selects the targeted network devices among other network devices on the data network based on profile information associated with the network devices (see col.13 line 9 to col.14 line 53 and col.17 line 47 to col.18 line 63).

As to claim 5, Kupka discloses a bulk data transfer manager that has access to the content store and a bulk data transfer agent executing in the network devices that requests the content from the bulk data transfer manager, the bulk data transfer manager downloading the content from the content store to the bulk data transfer agent, which stores the content on the network device (see fig.1, col.13 line 9 to col.14 line 53 and col.17 line 47 to col.18 line 63).

As to claim 6, Kupka discloses a system agent, executing in the network device, the system manager requesting the system agent to download the content; and the system agent requesting the bulk data transfer agent to download the content from the bulk data transfer manager (see fig.1, col.13 line 9 to col.14 line 53 and col.17 line 47 to col.18 line 63).

As to claims 7 and 8, Kupka discloses a management console that provides an interface to identify content for deployment on the network devices, the management console downloading the content to the content store and an interface to identify a group profile for targeting the network devices for content deployment, the management console downloading the group profile (using Unique Identifiers assigned to users) the content store (see figs.1, 3, col.12 line 5 to col.13 line 42 and col.15 line 9 to col.16 line 64).

As to claims 9 and 10, Kupka discloses an interface for identifying activation criteria for activating the content on the network devices and a system agent executing on the network device and the system manager activating the downloaded content sending a message to the system agent to activate the downloaded content (see fig.1, col.13 line 9 to col.14 line 53 and col.17 line 47 to col.18 line 63).

As to claims 11 and 12, Kupka discloses system agent executing on the network device, the system agent activating the downloaded content on the network device at a predetermined date and time, in response to an event (see fig.1, col.13 line 9 to col.14 line 53 and col.17 line 47 to col.18 line 63).

As to claims 13-15 and 16-18, Kupka discloses a channel event, an attachment of a peripheral device to the network device and a promotion notification agent executing on the network device, wherein the downloaded content is a promotion; the promotion notification agent activating the promotion in response to an event (see fig.8, col.8 lines 12-54, col.13 line 9 to col.14 line 53 and col.17 line 47 to col.18 line 63).

As to claims 19-22, Kupka does not specifically disclose a cable network, a satellite-linked network, a Digital Subscriber Line network and a wireless network. However, Kupka discloses using the computer system in the environment of TCP/IP, WAN, LAN, Internet Service Providers (ISPs) (see col.8 lines 12-54). A cable network, a satellite-linked network, a Digital Subscriber Line network and a wireless network, being similar to TCP/IP, WAN, LAN, Internet Service Providers (ISPs), are also well known in the network. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to use either of the above network environments depending on the choice of the implementation, and still achieve the same end results.

Claim 23 is rejected for the same reasons set forth in claim 1. As to the added limitation, Kupka further discloses a promotion notification agent that activates the content based on the activation criteria (see also fig.8, col.13 line 9 to col.14 line 53 and col.17 line 47 to col.18 line 63).

As to claim 24, Kupka discloses the promotion notification agent waits for a message from the system agent to activate the content (see fig.8, col.13 line 9 to col.14 line 53 and col.17 line 47 to col.18 line 63).

As to claims 25 and 26, Kupka discloses the promotion notification agent waits for a predetermined date and time established by the activation criteria to activate the content and monitoring user activity and waits for a predetermined user action established by the activation criteria to activate the content (see col.11 line 27 to col.12 line 53 and col.13 line 9 to col.14 line 52).

As to claims 27 and 28, Kupka discloses monitoring a video stream for embedded signal established by the activation criteria to activate the content and a current channel for a television display device and activates the content in response to the current channel (see col.13 line 9 to col.14 line 52 and col.15 line 9 to col.16 line 63).

Claims 29, 30, 33-39 are rejected for the same reasons set forth in claims 1, 2, 5, 8, 11, 12, 14, 28 and 27 respectively.

Claim 40 is rejected for the same reasons set forth in claim 23. As to the added limitation, Kupka discloses the content information can be a promotion data (using different electronic contents including media,

software, music and video available for purchase over the Internet, see col.1 line 26 to col.2 line 55, col.4 lines 6-63 and col.8 lines 12-54).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 3, 4, 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kupka US pat. No.6,434,535 in view of Thompson et al., US pat. No.5,961,602.

Kupka's teachings still applied as in item 3 above. Kupka does not specifically disclose downloading of the content to the targeted network devices during periods when low usage of the data and initiating downloading of the content to the targeted network devices when usage of the data network falls below a predetermined level. However, Thompson discloses downloading of the content to the targeted network devices during periods when low usage of the data and initiating downloading of the content to the targeted network devices when usage of the data network falls below a predetermined level (see abstract, fig.5, col.8

line 13 to col.9 line 42 and col.10 lines 23-47). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement Thompson's teachings into the computer system of Kupka to process data information because it would have ensured maximum utilization of network devices during off-peak caching of Web data from the World Wide Web of the Internet.

Other prior art cited

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
 - a. Rodkin et al, US pat. No. 6,092,074.
 - b. Kimura et al, US pat. No.6,282,508.
 - c. Hortsmann, US pat. No.6,363,356.
 - d. Reisman, US pat. No.6,611,862.
 - e. Isomursu, US pat. No.6,400,958.

Conclusion

8. Claims 1-40 are rejected.
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Dinh whose telephone number is 703-308-8528. The examiner can normally be reached on 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alam Hosain, can be reached on 703-308-6662. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-5510 for regular communications and 703-746-7239 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9600.

Khanh Dinh
Examiner
Art Unit 2155

September 17, 2003



HOSAIN ALAM
SUPERVISORY PATENT EXAMINER